

Appln No. 09/995,483
Amdt date November 27, 2006
Reply to Office action of August 28, 2006

REMARKS/ARGUMENTS

The above amendments and these remarks are in response to the Office action mailed on August 28, 2006. Claims 48, 49, 82, 84, 87, 88, 91 and 95 have been amended for clarity. Claims 48, 49 and 82-95 are now pending in this application. Reconsideration on the basis of the above amendments and remarks below is kindly requested.

The undersigned attorney also wishes to thank the Examiner for the telephonic interview on October 25, 2006 where the prior art disclosures were discussed.

The Examiner objected to the specification as not providing antecedent basis for a non-linear path. Non-linear gas paths are shown in Figure 2 and Figures 4-6 and are described in the corresponding sections of the specification. While the term "non-linear" is not expressly used, it is very clear from the specification and from the drawings that the gas path is not linear.

The Examiner rejected claims 84-95 under 35 U.S.C. §112, first paragraph as failing to comply with the written description requirement. According to the Examiner, there is no support in the disclosure as originally filed for a "non-linear gas path" or a "non-linear gas path extending beyond two locations external of the rim." As discussed, Figures 2 and 4-6 disclose non-linear gas paths. Furthermore, Figure 6 does disclose a non-linear gas path defined by the criss-crossing slots which extends beyond two locations external of the rim when a cap is capping a bottle. See for example a description provided on column 4, lines 8-27. Consequently, the rejections to claims 84-95 under 35 U.S.C. §112, first paragraph do not appear to be warranted and should be withdrawn.

The Examiner rejected claims 85, 88 and 91 under 35 U.S.C. §112, second paragraph as being indefinite. Claims 84, 88 and 91 have been amended to overcome this rejection.

The Examiner rejected claim 48 under 35 U.S.C. §102(b) as being anticipated by Ford. The Examiner also rejected claims 48 and 49 under 35 U.S.C. §102(b) as being anticipated by Rooney. Furthermore, the Examiner rejected claims 48 and 82 under 35 U.S.C. §102(b) as being anticipated by Hodges et al. Claims 48, 49 and 82 require a groove formed on a first surface and that "a first portion of the groove extends beyond a first location external of the rim and a second

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portion of the groove extends beyond a second location external of the rim wherein said first location is spaced apart from said second location, . . . " Ford discloses grooves 12 which are linear. Each of the Ford grooves 12 extends only beyond one location external of the rim. Neither of the grooves disclosed by Ford appear to extend beyond two locations external of the rim which are spaced apart from each other as required by claims 48, 49 and 50. Rooney also discloses linear grooves 13, each of which extends beyond a single location external of the rim. Similarly Hodges et al. discloses grooves 21, each of which extends only beyond a single location external of the rim. Consequently, these three references, alone or in combination, cannot anticipate nor render obvious claims 48, 49 and 82 as neither of these references appears to disclose a groove which has two portions which extend beyond two locations external of the rim wherein the first location is spaced apart from the second location.

The Examiner rejected claim 49 under 35 U.S.C. §103(a) as being unpatentable over Ford. The Examiner also rejected claims 49 and 83 under 35 U.S.C. §103(a) as being unpatentable over Hodges et al. Claim 83 is dependent from claim 82 and requires that the inserts are made of plastic. As discussed, neither Ford nor Hodges et al. appear to disclose a groove which extends beyond two locations external of the rim wherein the first location is spaced apart from the second location, as required by claim 82. As such, these references cannot anticipate nor render obvious claim 82. Claim 83 is dependent from claim 82. As such, these references also cannot render obvious claim 83 for the same reasons that they do not render obvious claim 82 and for the additional limitations that claim 83 contains therein.

The Examiner rejected claims 84-86 under 35 U.S.C. §103(a) as being unpatentable over Rooney. According to the Examiner, Rooney teaches a claimed cap system, except for the non-linear shape of the gas path of the insert. The Examiner also rejected claims 84-91, 94 and 95 under 35 U.S.C. §103(a) as being unpatentable over Hodges et al. According to the Examiner, Hodges et al. teaches the claimed cap system except for the non-linear shape of the gas path of the insert. According to the Examiner, it would have been obvious to one having ordinary skill in the art at the time of the invention was made to make the gas path of a non-linear shape, since such a modification would have involved a mere change in the shape of a component. Applicant

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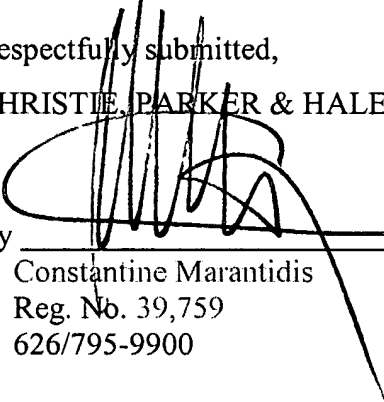
respectfully disagrees. The use of a non-linear gas path is not a mere design change, but rather a change that provides for more control in the rate of the venting of the gas from a bottle. It is a change that renders the gas path more effective than what is disclosed in the cited references. Consequently, Applicant submits that claims 84-86 are not rendered obvious by Rooney in claims 84-91, 94 and 95 are not rendered obvious by Hodges et al.

The amendments to claims 48, 49 and 82 are supported by Figure 6 in the application as originally filed, as well as by the disclosure on column 4, lines 8-27. The amendments to claims 87, 88, 91 and 95 were made to correct informalities.

A substitute declaration is also being submitted herewith.

The objections and rejections to all claims pending in this application are believed to have been overcome and this application is now believed to be in condition for allowance. Should the Examiner have any remaining questions or concerns about the allowability of this application, the Examiner is kindly requested to call the undersigned attorney to discuss them.

Respectfully submitted,
CHRISTIE PARKER & HALE, LLP

By 
Constantine Marantidis
Reg. No. 39,759
626/795-9900

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